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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/864,134	05/24/2001	Joachim Opitz	PHDE 000085	1105

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EXAMINER

HARPER, HOLLY R

ART UNIT	PAPER NUMBER
2879	

DATE MAILED: 09/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/864,134	OPITZ ET AL.
	Examiner Holly R. Harper	Art Unit 2879

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____ .
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-5 is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 24 May 2001 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on ____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____ .
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Czeiler et al. (USPN 4,421,803) hereinafter "Czeiler" in view of Jansen et al. (USPN 5,766,336) hereinafter "Jansen".

In regard to claims 1-4, the Czeiler reference discloses an incandescent lamp with a coating on the inner walls of the bulbs (Column 5, Lines 45-46). The pigment contains titanium dioxide, a white pigment, (Column 5, Lines 29-30) and cadmium yellow (Column 5, Line 59). The Czeiler reference discloses a pigment containing cadmium, but does not disclose an oxide-nitride pigment. The Jansen reference teaches that cadmium based pigments used to color various articles can be replaced with an oxide-nitride pigment. The cadmium based pigments are known to release toxic constituents (Column 1, Lines 15-30). Jansen discloses general formulas for several oxide nitride pigments. The following constants are used for the formulas (Column 12, Lines 9-13 and Lines 27-30):

A = Mg, Ca, Sr, Ba

C = Mg, Ca, Mn, Fe, Co, Ni, Zn

A' = Ln, Bi, Al, Fe

C' = Al, Ga, In, Ti, V, Cr, Fe, Co, Ni

A'' = Ln, Bi

D = Al, Ga, In, Ti, V, Cr, Fe, Co, Ni

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 $B = V, Nb, Ta$ $D' = Ti, Zr, Hf, Sn, Ge, Si, Nb, Ta$ $B' = Ti, Zr, Hf, Sn, Ge$

The following general equations were disclosed:

 $A_{1-u} A'_u BO_{2-u} N_{1+u}$ where u is between 0 and 1 (Column 11, Lines 45, 57-58) $A_x A'_{2-x} B_2 O_{5+x} N_{2-x}$ where x is between 0 and less than 2 (Column 12, Line 1, 13-15) $A'_2 B_{2-y} B'_y O_{5+y} N_{2-y}$ where y is between 0 and less than 2 (Column 12, Line 5, 13-15) $CD_{2-m} D'_m O_{4-m} N_m$ where m is between 0 and 2 (Column 11, Line 9, 21-22) $C_{1-n} C'_n D_2 O_{4-n} N_n$ where n between 0 and 1 (Column 12, Line 24, 34-35) $A'_2 CBO_5 N$ (Column 11, Line 34) $A'_2 A'' BO_4 N_2$ (Column 11, Line 36) $A'_2 DBO_3 N_3$ (Column 11, Line 38)

Thus, it would have been obvious at the time the invention was made to a person having ordinary skills in the art to use a non-cadmium based pigment based on the general formulas, as taught by Jansen, to coat the inside of incandescent lamps.

In regard to claim 5, the Examiner notes that the claim limitation of "the pigment is electrostatically deposited on the inside of the light emitting bulb" is drawn to a process of manufacturing, which is incidental to the claimed apparatus. It is well established that a claimed apparatus cannot be distinguished over the prior art by a process limitation. Consequently, absent a showing of an unobvious difference between the claimed product and the prior art, the subject product-by-process claim limitation is not afforded patentable weight (see MPEP 2113).

Response to Arguments

Arguments are not found persuasive.

Regarding applicants claim that Czeiler in view of Jansen is not a workable combination, the Examiner respectfully disagrees. Czeiler states that the softening point of the glass matrix is lower than the softening point of the glass body and lower than the softening point of the pigment. More preferred are glass matrices having a softening point about 80°C lower than the softening point of the glass body (Column 2, Lines 25-34). Most glass bodies used for light sources are made of soda lime. The softening point of that material is 726°C. Therefore, the coating would be baked at a temperature around 700°C.

Regarding applicants claim that Czeiler in view of Jansen that a glass matrix is not claimed by the applicant, the Examiner respectfully agrees. However, all of the limitations in the applicants claims are met by the combination of Czeiler in view of Jansen. There is no reason to exclude elements not specifically claimed as long as the claimed limitations are met.

Regarding the addition of claim 5, it is a product-by-process claim and has not been given patentable weight. Czeiler does mention the use of electrostatic coating in creating a coated glass envelope (Column 2, Lines 4-7).

Contact Information

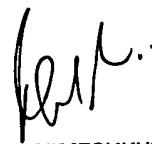
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Holly Harper whose telephone number is (703) 305-7908. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel, can be reached on (703) 305-4794. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7382.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



Holly Harper
Patent Examiner
Art Unit 2879



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